

CHAPTER 5
APPLICATIONS FOR TRACK LICENSES
AND RACING DATES

[Prior to 11/19/86, Racing Commission[693]]
[Prior to 11/18/87, Racing and Gaming Division[195]]

491—5.1(99D) In general. Any qualified nonprofit corporation as defined in Iowa Code section 99B.1(10) organized to promote those purposes enumerated in section 99B.7(3) “*b*,” or a nonprofit corporation which conducts a livestock exposition for the promotion of the livestock, horse, or dog breeding industries of the state, may apply to the commission for a license to conduct horse or dog racing. The application shall be filed with the administrator of the commission at least 60 days before the first day of the horse-race or dog-race meeting which the nonprofit corporation or association proposes to conduct. For purposes of this chapter, the requirements placed upon an applicant shall become a requirement to the licensee once a license to race has been granted.

5.1(1) Every license to hold a meeting is granted upon the condition that the license holder shall accept, observe and enforce the rules and regulations of the commission, and it shall be the duty of each and every officer, director, and employee of said license holder to observe and enforce the rules.

5.1(2) All applications shall be signed and verified under oath.

5.1(3) For purposes of these rules, the terms “*stock*” and “*stockholder*” shall also be defined as meaning “*members*” and “*membership interest in*” for nonprofit corporations organized under Iowa Code chapters 504A and 504B.

5.1(4) Applicants shall designate those portions of the application that should be regarded as confidential under Iowa Code section 22.7.

5.1(5) Limitation on location and number of racetracks.

a. The number of licenses to conduct horse racing shall be one for a racetrack located in Polk County and the number of licenses to conduct dog racing shall be two, one for a racetrack located in Dubuque County and one for a racetrack located in Pottawattamie County.

b. Notwithstanding paragraph “*a*” above, with the approval of the commission:

(1) A licensed racetrack and its facilities may be sold and a new license may be issued for operation in the same county.

(2) A licensed racetrack may move to a new location within the same county.

(3) If a racetrack license is surrendered, not renewed, or revoked, a new license may be issued for operation in the same county.

**c.* A licensee seeking an increase in the number of gaming machines at a racetrack enclosure must obtain prior approval from the commission. In the request for approval from the commission, a licensee shall demonstrate to the commission’s satisfaction that the additional gaming machines:

(1) Will have a positive economic impact on the community in which the licensee operates;

(2) Will benefit the residents of Iowa;

(3) Will result in increased distributions to qualified organizations entitled to distributions under Iowa Code section 99F.6(4) “*a*”;

(4) Are necessary to satisfy overall excess demand in the particular market in which the licensee is located;

(5) Will result in permanent improvements and land-based development in Iowa;

(6) Are supported within the broader community in which the licensee operates;

(7) Will not have a detrimental impact on the financial viability of other licensees operating in the market in which the licensee operates;

(8) Are consistent with legislative intent concerning the definition of “racetrack enclosure” and the purpose of gambling games at racetrack enclosures; and

(9) Will benefit the horse or greyhound industries in Iowa.

*Effective date of 12/23/98 delayed until the end of the 1999 Session of the General Assembly by the Administrative Rules Review Committee at its meeting held December 8, 1998.

The various criteria set forth may not have the same importance in each instance and other factors may present themselves in the consideration of the increase. The criteria are not listed in any order of priority.

In addition to the foregoing criteria, a licensee requesting additional gaming machines shall demonstrate to the commission's satisfaction that (1) the licensee is in compliance with applicable statutes, rules and orders and has not had any material violation of any statutes, rules or orders in the previous 12 months; and (2) the licensee has taken sufficient steps to address the social and economic burdens of problem gambling.

491—5.2(99D) Ownership and management. Every application to become a license holder shall contain the following ownership and management information.

5.2(1) State the name of the applicant and indicate whether it is an individual, firm, association, partnership, or corporation.

5.2(2) State the following information as to the applicant and if the applicant has a parent corporation, the same information must be submitted both for the parent and applicant corporation:

a. State the year in which the applicant was organized, its form of organization, and the name of the state under the laws of which it was organized. Attach a copy of the articles, bylaws, and previous three years' corporate tax returns to the application.

b. On the initial application of a license holder for racing dates, a certified copy of the articles of incorporation of the applicant must be attached to the application and any applications for racing dates filed subsequent to the initial application and any subsequent amendments to the aforementioned articles of incorporation shall be attached thereto, so that there will be on file at the commission at all times a current copy of the applicant's articles of incorporation and amendments thereto.

c. State the classes of capital stock authorized, the amount authorized, and the amount outstanding as of the date not less than 15 days prior to the date of filing of the application. State the amount of dividends paid to stockholders during the five years immediately preceding the application.

d. State the name and address of each person or entity who owns, of record or beneficially, one or more shares of any class of capital stock or an option or conditional interest in applicant. This can be indicated in columnar forms providing for name and address, class of stock owned, type of ownership whether of record or beneficial, amount owned, and percent of the class of stock.

e. Describe briefly the terms of any voting trust in which any of the capital stock is held and the name, address, class of stock, and number of shares of stock for all stock held in said voting trust.

f. Describe briefly the terms of any proxy by which any of the capital stock is held, the holder of the proxy, and the name, address, class of stock, and number of shares of stock for all stock held by said proxy.

g. State whether 5 percent or more of the applicant's assets, or 5 percent or more of any stockholders' stock, is encumbered by any long-term debt. Explain fully, by stating names and addresses of parties holding security interests or promissory notes from the applicant and the stockholders, where the stock is pledged as security, and outline the terms of the agreements creating the security interests.

h. Outline briefly the dividend rights, voting rights, liquidation rights, preemptive rights, conversion rights, and redemption provisions. If the rights of holders of such stock may be modified otherwise than by a vote of majority or more of the shares outstanding, voting as a class, so state and explain briefly.

i. If the applicant was organized as a corporation within the past five years, furnish the following information: The names of the promoters; the nature and amount of anything of value received or to be received by each promoter directly or indirectly from the applicant; and the nature and amount of any assets, services, or other consideration therefor received or to be received by the applicant.

j. List the names of all directors and officers of the applicant and all persons chosen to become directors or officers and furnish personal history résumés for each person named, using forms provided by the commission. Indicate all positions and offices with the applicant held by each person named, and the principal occupation during the past five years of each person named.

k. List all parents of the applicant showing the basis of control and as to each parent, the percentage of voting securities owned, or other basis of control by any parents.

5.2(3) Attach to the application, balance sheets and profit and loss statements for each of the three fiscal years immediately preceding the application, or for the period of organization if less than three years. If the applicant has not completed a full fiscal year since its organization or if it acquires or is to acquire the majority of its assets from a predecessor within the current fiscal year, the financial information shall be given for the current fiscal year. Balance sheets, profit and loss statements, and all other financial statements required herein shall be prepared, audited, and certified by independent certified public accountants in accordance with generally accepted accounting procedures and practices accepted on a consistent basis. Any report containing exceptions of a material nature will not be considered to be certified.

5.2(4) State all loans by applicant in excess of 1 percent of net income and describe fully the name of the borrower, amount of the loan, collateral, and terms.

5.2(5) Briefly describe any pending legal proceedings to which the applicant or any of its subsidiaries or parent corporation is a party or of which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted, and the principal parties thereto.